

EA



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,940	07/11/2003	Ronald Ray Catt		8881

7590 08/10/2005

Matthew F. Jodziewicz, Esq.
3447 Mandeville Canyon Road
Los Angeles, CA 90049-1019

EXAMINER

PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
----------	--------------

3612

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,940

Applicant(s)

CATT ET AL.

Examiner

Dennis H. Pedder

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15-19, 22-28, 31-35, 38-42 and 45-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) AS ABOVE is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the axle and beverage dispenser of claims 1, 22, and the details of claims 5, 11, 22, 27, 31, 38, 39, 41, 45 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Applicant has remarked that the specific items not shown are not enumerated. This is not well taken as applicant, in listing a plethora of claims, surely can read the content of each of

Art Unit: 3612

these carefully crafted claims and produce drawings for that which applicant has apparently conceived as of the date of filing of this application.

Figure 1, filed 7/21/2005 is approved.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claims 45. This objection is repeated.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

Art Unit: 3612

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-5, 9-11, 16, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kappos in view of Jagsch and Robinson or Poarch et al. in view of Robinson.

Kappos has the mobile bar on a trailer frame of conventional construction with axle, tongue, compartment with front, rear and side walls, generally flat counter top 26/28, and beverage dispensing system. Kappos lacks a telescopic canopy providing both shade and cover when retracted, a detail known in this art as evidenced by the patent to Jagsch at 40. Kappos also lacks a seat member mounted to one of the rear and side wall members, a detail known in this art as evidenced by the patent to Poarch et al. with a socket mounted seat or Robinson with a pivotally mounted seat, with the wall being an obvious location to mount the seat in the former in view of the teaching of wall mounting in Robinson. It would have been obvious to one of ordinary skill to provide in Kappos a telescopic cover as taught by Jagsch in order to provide both shade and cover, keeping the counter clean, as well as seating as taught by either Poarch et al. or Poarch et al. in view of Robinson for the convenience of the consumer.

As to claim 4, Robinson stores the seat within and it would be obvious to so store the seat of Poarch et al. in view of this teaching.

Claims 5, 9-11, 18-19 are common knowledge in the art, obvious to use here for their known utility.

Applicant may seasonally challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the

Art Unit: 3612

exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

6. Claims 6-8, 22-27, 33-35, 38-41, 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kappos in view of Jagsch and Robinson as applied to claim 1 above, and further in view of Cheeseman.

Paragraph 5 above is incorporated by reference. It would have been obvious to one of ordinary skill to provide in the references above an electrical hookup 33 to the mobile cart as taught by Cheeseman in order to power electrical accessories.

Claims 23-27, 34-41, 47-48 are common knowledge in the art, obvious to use for their known utility.

7. Claims 12, 15, 28, 31, 42, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kappos in view of Jagsch and Robinson or Poarch et al. in view of Robinson as applied to claim 1 above, or Kappos in view of Jagsch and Robinson in view of Cheeseman as applied to claim 22 and further in view of Conklin et al.

It would have been obvious to one of ordinary skill to provide in either a trailer or a beverage cart a railing at rear wall, serving as both bumper and inherently foot support, as taught by Conklin et al. at 10. The purpose is self evident: to protect the mobile appliance with the added benefit of allowing foot support.

As to claim 13, bumpers are removable in the reverse of assembly.

8. Claims 17, 32, 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kappos in view of Jagsch and Robinson or Poarch et al. in view of Robinson as applied to claim 1 above, or Kappos in view of Jagsch and Robinson in view of Cheeseman as applied to claim 22,

Art Unit: 3612

or this combination further in view of Conklin et al as applied to claim 42, all in view of Boyd et al.

It would have been obvious to one of ordinary skill to provide in the combinations of references above lights on a canopy for a dispensing vehicle as taught by Boyd et al. at 52,54 in order to serve customers at night.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is dependent on canceled claim 13 and thus is indefinite.

Response to Arguments

11. Applicant's arguments filed 7/21/2005 have been fully considered but they are not persuasive.

Applicant's argument that the top of the mobile structure of Kappos is not useable as a bar is not convincing as the claims are open ended as to any structure thereof. Does applicant really suggest that a glass cannot be placed on either of surfaces 26 and 28? Likewise arguments relating to hinges, wheel wells and signal lights are irrelevant to the use of a surface. To define over the reference to Kappos is deemed to be a trivial matter, not yet undertaken by applicant.

Art Unit: 3612

For example, applicant could define the counter top as -- a generally flat fixed counter top member closing the entire top of the compartment--.

Applicant's argument that no reason was provided for providing a canopy and seating is traversed. See paragraph 5 above.

Argument that the bumper of Conklin is not a resting place for feet is traversed as again the claims are open ended in this regard.

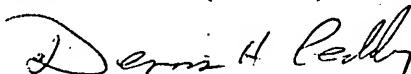
The rejection is made non-final due to the incorrect former rejection of claim 33.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667.

The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is ~~703 571-8300~~ ^{703 571-273-8300}.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dennis H. Pedder
Primary Examiner
Art Unit 3612

8/5/05

Application/Control Number: 10/620,940

Page 8

Art Unit: 3612

DHP

4/15/2005

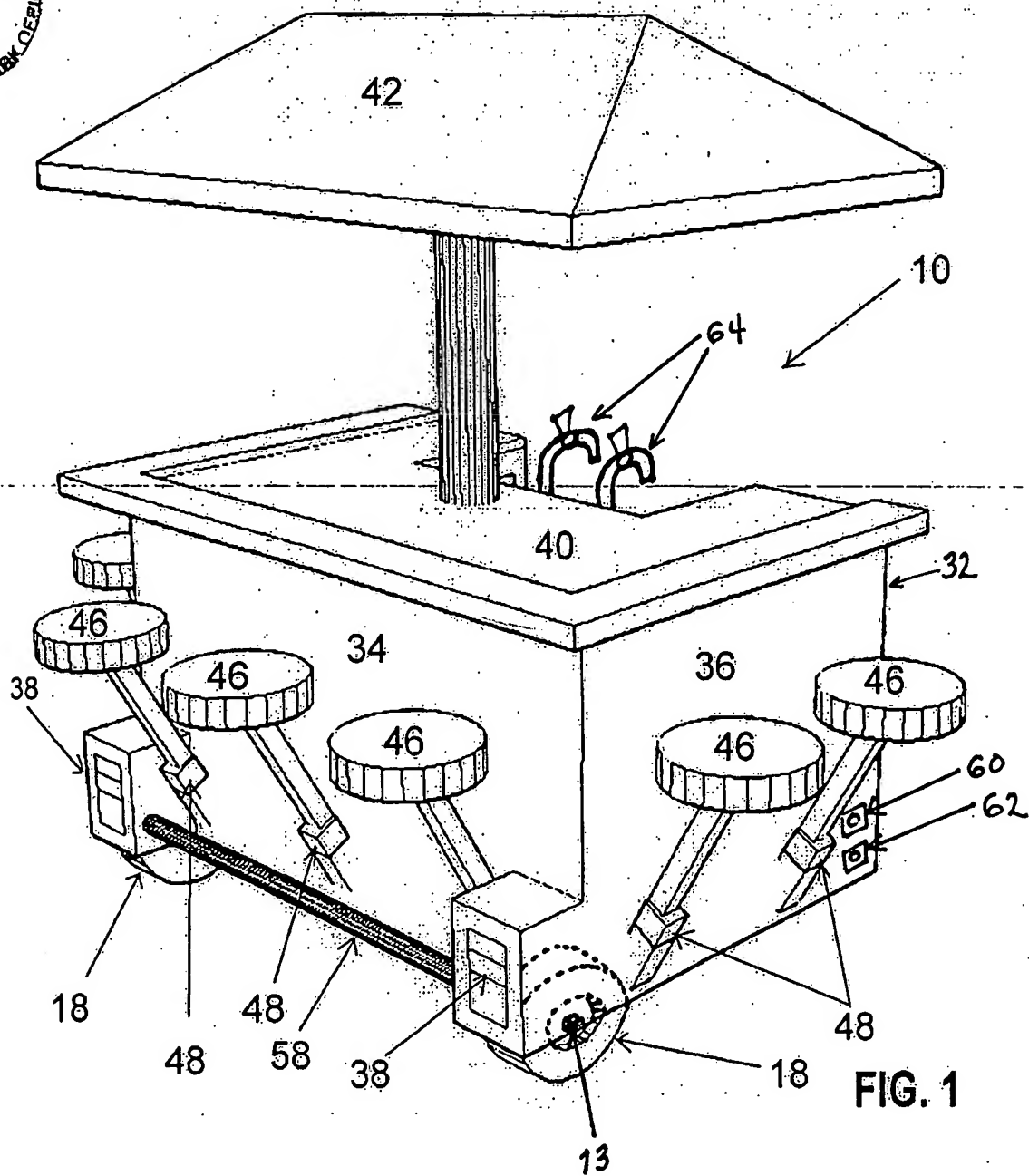


FIG. 1

approved
8/2/05